IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1033 OF 2007

THE STATE OF MAHARASHTRA ... APPLICANT.

[ORIG.COMPLAINANT]

VS.

BALIRAM DANYANESHWAR BHUJBAL & 2 ORS. ... RESPONDENTS

[ORIG.ACCU.NO.1 TO 3]

SHRI P.S.HINGORANI APP FOR THE APPLICANT.

SHR P.B.SHELKE WITH SHRI P.D.PURWAY FOR RESPONDENT NO. 1 TO 3.

CORAM : SRI R.M.S.KHANDEPARKAR AND SRI A.A. SAYED, JJ.

DATE : DECEMBER 18, 2007.

P.C.

1. Heard the learned APP for the Applicant and the learned Advocate for the respondents.

2. By the present application, the applicant seeks leave to file appeal against the impugned judgment, dated 4th December, 2006, passed by the learned Sessions judge in Sessions Case No. 463 of 2005 whereby the respondents facing trial punishable under Section 302, 498-A and 304-B read with 34 of the Indian Penal Code were acquitted.

3. The learned Sessions Judge on analysis of the evidence on record has arrived at a finding that the prosecution failed to establish any ill-treatment caused to the deceased. We have perused the testimonies of the witnesses recorded in the course of the trial and we find that no fault can be found with the analysis of the said evidence as well as finding arrived on the basis of such analysis by the trial Court. There is absolutely no evidence on record to disclose any ill-treatment to the deceased prior to her death. Being so, question of any presumption in favour of the prosecution merely on account of the death within one year from the date of the marriage does not arise.

4. Apart from the testimony of PW 1 - father of the deceased to the effect that there was complaint filed with the police station wherein some ill-treatment to his daughter by the accused persons is disclosed, there is absolutely no material placed on record either in support of the allegations of ill-treatment or even in relation to the alleged complaint. The defence, on the contrary discloses that the complaint was being an oral one, there is no confirmation of even such oral complaint by the investigation officer or by any police officer. The explanation submitted on behalf of the accused about the injuries caused on the deceased’s body has been

fully corroborated by the medical evidence on record. Undisputedly, the evidence on record discloses that at the time of incident none of the accused was present in the house. Even the FIR confirms the same. The testimony of the father of the deceased rather than supporting the allegations of ill-treatment clearly discloses that he had never any apprehension that his daughter would be driven to take any drastic step like committing suicide, rather the explanation regarding the incident submitted by the accused finds corroboration from the evidence on record. In these circumstances, there is no case made out to interfere with the impugned Judgment.

5. Hence, no case is made out for grant of leave to file appeal against the impugned judgment and order.

The application is, therefore, rejected.

[R.M.S.Khandeparkar,J.]

[A.A.Sayed, J.]